

**AMENDMENTS TO DRAWINGS**

Please cancel Figs. 7-11.2 and 18.1-19 and replace these Figs. with attached replacement Figs. 7-11.2 and 18.1-19.

### **REMARKS**

Claims 1-10 are currently pending in the application, as amended. Claim 1 has been amended to point out that a clamp member has a through hole that extends through the clamp member from a first side facing a base member in an assembled position to a second side facing away from the base member in the assembled position. Support for this amendment can be found in specification paragraphs 59 and 69 and in Figs. 5-8.1, 20 and 21. Claims 4-6 have been amended to replace the word “an” with the word, “the” before the phrase, “assembled position”, which is provided with antecedent basis in amended claim 1. Support for this amendment can be found in originally filed claims 1 and 4-6.

Specification paragraph 62 has been amended to insert a brief description of the through hole 29 in the clamp member 4 and the first and second sides 4a, 4b of the clamp member 4. Support for this amendment can be found in originally filed Figs. 2, 3, 5, 7-8.3, 15.2 and 19-21.

The drawings have been amended to replace Figs. 7-11.2 and 18.1-19 with attached replacement Figs. 7-11.2 and 18.1-19 to insert reference numerals identifying the first and second sides 4a, 4b of the clamp member 4. Specifically, Figs. 7, 8.1, 8.2 and 19 have been amended to insert an additional reference numeral. Support for these amendments can be found in originally filed Figs. 7, 8.1, 8.2 and 19 and throughout the specification.

Based upon the above, no new matter has been added as a result of the amendments to the specification, drawings and claims.

### **Telephone Interview**

The above-described amendments were made as a result of a telephone interview with Examiners Kennedy and Stodola on February 2, 2006. As a result of the telephone interview, the Examiner indicated that amended claim 1 is likely patentably distinguishable over the currently pending rejection. The Examiner requested that Applicants amend the figures and specification to point out the first and second sides 4a, 4b of the clamp member 4 to further define the through hole 29. Below is a summary of the arguments presented to the Examiner, which resulted in the Examiners indicating that amended claim 1 is likely patentably distinguishable over the currently pending rejection. The Undersigned and the Applicants would like to thank the Examiners for the courtesies extended during the interview.

**CLAIMS**

**Claim Rejections – 35 USC § 103**

The Examiner rejected claims 1-5, 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,032,939 (Chen) in view of U.S. Patent No. 6,196,777 B1 (Price). The Examiner argues that Chen discloses each and every element of the above-listed claims except for a tie-down ring. The Examiner further argues that Price discloses the tie-down ring and it would have been obvious to one having ordinary skill in the art to modify the clamp device of Chen to have a tie-down ring based on Price. Applicants respectfully traverse this rejection with respect to amended claims 1-4, 9 and 10.

Referring to Figs. 1-5, Chen is directed to a clamp device 1 including a U-shaped body member 11 and a generally L-shaped body member 12 that is secured to the U-shaped body member 11 by a bolt 13. The U-shaped body member 11 includes a dovetail-shaped insertion block 113 that is slidably received into a guide groove 123 in the L-shaped body member 12 to properly align the L-shaped body member 12 with the U-shaped body member 11. The insertion block 113 extends generally perpendicularly from an exposed surface of a second leg 116 of the U-shaped body member 11 and the groove or channel 123 is formed on an inner surface of a longitudinal portion 124 of the L-shaped body member 12. The L-shaped body member 12 includes a through hole 122 and the U-shaped body member 11 includes a round opening 115 and a hexagonal hole 112 in a second leg 116. In an engaged position, the bolt 113 is inserted through the through hole 122 and the round opening 115 to engage a nut 114 that is inserted in the hexagonal opening 112. An outer surface of the nut 114 is engaged by the hexagonal opening 112 such that the bolt 113 may be tightened, drawing opposing anti-skid pads 111, 121 of the U-shaped and L-shaped body members 11, 12 toward each other to clamp a cap 2 to a truck bed rail 3.

Referring to Figs. 1-5, Price is directed to a cargo anchor for a truck bed. The cargo anchor includes a clamping device 6 and a journal box 4 with a D-ring 58 mounted thereto. A stem of the D-ring 58 is rotatable relative to the clamping device 6 and journal box 4. A tie-down strap may engage the D-ring 58 in several orientations for supporting cargo in the truck bed.

Referring to Figs. 2, 3, 7-8.3, 13.1-15.2 and 19-21, the present application is directed to a fastening assembly for securing a bed liner 38 to a truck bed 39. The truck bed 39 has an inward extended bed rail 62 and the bed liner 38 includes at least one hole 42. The fastening assembly includes a base member 1 and a clamp member 4. In a clamping position, the base

member 1 engages the clamp member 4 through the bed liner hole 42 such that a back surface of the base member 1 is urged toward the clamp member 4 to sandwich the bed liner wall 38 and bed rail 62 therebetween. The base member 1 includes an extended direction control rod 14 that extends generally perpendicularly from the back surface for insertion through the bed liner hole 42 in the clamping position. The clamp member 4 includes at least one through hole 29 extending from a first side 4a to a second side 4b for insertion of the control rod 14 therein. The first side 4a generally faces the base member 1 and the second side 4b generally faces away from the base member 1 in an assembled position. The hole 29 can be moved along an extended direction of the control rod 14 when the clamp member 4 is assembled to the base member 1. The clamp member 4 may be inserted through the hole 42 in the bed liner wall 38 when the clamp member 4 is engaged with the base member 1 (Fig. 19). The fastening assembly also includes a tie-down ring 3 that is removably attached to the base member 1.

Amended claim 1 is directed to a fastening assembly for securing a bed liner to a truck bed and recites, *inter alia*, a base member (1) for engaging a clamp member (4) through the bed liner hole (42), the base member (1) including a back surface that is pressed by the clamp member with the bed liner wall and bed rail in between, the base member having at least one extended direction control rod (14) extending generally perpendicularly from the back surface for insertion through the bed liner hole (42); the clamp member (4) having at least one through hole (29) extending through the clamp member from a first side to a second side, the first side facing the base member and the second side facing away from the base member in an assembled position.

When making a rejection under 35 U.S.C. § 103, the Examiner has the burden of establishing a *prima facie* case of obviousness. The Examiner satisfies this burden only by showing 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, 2) a reasonable expectation of success and 3) the prior art references must teach or suggest all of the claim limitations (MPEP 706.02(j)). The teaching or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art and not from the Applicant's disclosure (MPEP 706.02(j)). Further, the mere fact that the prior art could be modified in the manner proposed by the Examiner, does not make the modification obvious unless the prior art suggests the desirability of the modification. Ex parte Dussaud, 7 U.S.P.Q. 2d 1818, 1820 (PTO Bd. App. & Int. 1988).

Applicants respectfully submit that a clamp mechanism comprised of the clamp of Chen modified in view of the anchor of Price would not include all of the claimed features of amended claim 1 of the present application. Specifically, the modified clamp of Chen in view of Price would not include a fastening assembly including a base member with a control rod extending generally perpendicularly from a back surface that presses a clamp member with a bed liner wall and bed rail therebetween. In addition, the combined device of Chen in view of Price would not include a through hole extending through the clamp member from a first side to a second side into which the control rod is inserted, wherein the first side is facing the base member and the second side is facing away from the base member in an assembled position. Specifically, the combined device of Chen in view of Price would, at best, include the dovetail-shaped insertion block that is slidably inserted into the guide groove or channel, which is formed in a surface of the L-shaped body member but does not extend through the L-shaped body member. In addition, the dovetail-shaped insertion block 113, which must be considered the direction control rod of the present application, does not extend generally perpendicularly from a back surface of a base member that is pressed by a clamp member with a bed liner and bed rail therebetween. The surfaces of the clamp device of Chen that engage the truck bed rail are positioned on a plane that is generally parallel to the extension direction of the dovetail-shaped member of Chen and neither of these surfaces is located on a surface from which the dovetail-shaped member extends. Accordingly, even if the dovetail-shaped insertion block were moved from one member to another in Chen, the block would not extend generally perpendicularly from a back surface of a base member that is pressed by a clamp member with a bed liner and bed rail therebetween. The dovetail-shaped insertion block extends generally parallel relative to such a surface of either member of Chen. That is, the surface from which the dovetail-shaped member of Chen extends is in facing engagement with the L-shaped member when the clamp is engaged with the truck bed rail and will never be used to press with an opposing member a bed liner wall and bed rail in between as is claimed in amended claim 1.

Based upon the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of amended claim 1 based upon obviousness of Chen in view of Price.

Claims 2-5, 9 and 10 are dependent upon amended claim 1. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 2-5, 9 and 10 based at least upon their dependence upon amended claim 1 for the above-outlined reasons.

The Examiner rejected claims 6-8 under 35 U.S.C. § 103(a) as being unpatentable or Chen in view of Price and further in view of U.S. Patent Nos. 5,586,373 (Eby) or 5,134,964 (Masters); respectively. The Examiner argues that Chen in view of Price discloses each and every element of currently pending claims 6-8 except for a supporting plate for attaching to the inner surface of the bed rail having a double-sided adhesive tape nor having spring clips capable of attaching the support plate to the inner surface of the bed rail. The Examiner further argues that Eby teaches a bed liner with an inner support flange for reinforcement and Masters teaches an assembly having double-sided tape and a spring clip capable of attaching a supporting plate. The Examiner further argues that it would have been obvious to one having ordinary skill in the art to modify an assembly Chen in view of Price to have an inner support flange in view of Eby and an adhesive and clip to secure a supporting plate as taught by Masters in order to construct a device having each and every element of claims 6-8. Applicants respectfully traverse this rejection.

Referring to Figs. 1-3, Eby is directed to a clamp 10 for securing a truck cap to a truck bed 50, 52, 54. The clamp 10 includes a pair of clamping members 12, 14 having opposing clamping pods 34, 36 and two engagement arms 22, 28. The engagement arms 22, 28 include a groove 24 that receives a tongue 32 for aligning the clamping members 12, 14 in a working position. A fastener 44 releasably secures the clamping members 12, 14 to the truck bed 50, 52, 54 in a mounted position. The truck bed 50, 52, 54 includes an inner support flange 56 that is engaged by one of the clamping pods 36 in the mounted position.

Referring to Figs. 1-4, Masters is directed to a flexible security loop A for a kayak hull 12. The loop A is secured to the hull by enlargements 34, 36 on the ends of the loop A that engage a slot 30 of a bracket plate 14 and a nut and bolt 50, 52. A resilient gasket 38, which may be comprised of an adhesive, is mounted between the plate 14 and the hull 12 in an assembled condition.

Claims 6-8 are dependent upon amended claim 1. Applicants respectfully submit that the proposed combinations of Chen in view of Price and further in view of Eby or Masters would not include each and every element of amended claim 1 of the present application. Specifically, Applicants respectfully submit that the addition of Eby or Masters to the combined device of Chen in view of Price does not result in a fastening assembly including a base member having a back surface that is pressed by a clamp member with a bed liner wall and bed rail in between, wherein a control rod extends generally perpendicularly from the back surface and a hole in the clamp member that extends through the clamp member from a first side that faces the base member to a second side that faces away from the base member

in an assembled position. Eby and Masters do not include any of the recited features of amended claim 1 and one having ordinary skill in the art would not modify Chen in view of Price and further in view of Eby or Masters to include any of these features, as was also described above with respect to the previous rejection of Chen in view of Price.

Based upon the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 6-8 based upon their dependence upon amended claim 1, for the above-outlined reasons.

### CONCLUSION

In view of the foregoing Amendment and remarks, Applicants respectfully submit that the present application, including amended claims 1-10, is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

**Ekawat Vitoorapakorn *et al.***

February 14, 2006  
(Date)

By:

Dennis J. Butler

**DENNIS J. BUTLER**

Registration No. 51,519

**AKIN GUMP STRAUSS HAUER & FELD LLP**

One Commerce Square

2005 Market Street, Suite 2200

Philadelphia, PA 19103-7013

Telephone: 215-965-1200

**Direct Dial: 215-965-1292**

Facsimile: 215-965-1210

E-Mail: [dbutler@akingump.com](mailto:dbutler@akingump.com)

DJB  
Enclosures